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SUBJECT: IRAQI PROVINCIAL ELECTIONS: OBSTACLES BUT A WAY FORWARD

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Classified By: Ambassador Ryan C. Crocker for Reasons 1.4(b) and (d).

I1. (C) Summary: The withdrawal of the Presidency Council veto of the Provincial Powers Law (septel) has removed one potential obstacle to rapid progress on an electoral law when the Council of Representatives convenes in late March. However, significant legislative, logistical, and political hurdles need to be overcome to permit the holding of free and fair provincial elections. We have been providing the GOI with the technical assistance it needs to overcome legislative and logistical obstacles. Politically, those with power will be reluctant to risk losing it, and we will need to be alert to possible delaying tactics. It is theoretically possible that the October 1 goal for elections set out in the provincial powers law can still be achieved. Nonetheless, the reality of the legislative timeline and logistical challenges makes it more likely that the date for provincial elections will be pushed back to late 2008 or perhaps even early 2009. End Summary

LEGISLATIVE OBSTACLES

I2. (C) Although provincial elections could be held without drafting a new elections law (under the authority of the still valid CPA decree) there is near unanimity on the need for new legislation to govern provincial elections. We believe elections will be considerably more credible if a new law is in place, in particular since the closed list system used in 2005 in Iraq is widely blamed for a host of governmental failings. Reporting from the PRTs (refs A, B, C, and D) indicates the general desire of the Iraqi people for an open-list system. In addition, the new elections law will have to address the IDP situation so that two million Iraqi citizens are not disenfranchised. The draft law currently being considered by the Council of Ministers provides for an open voting system and mandates that certain voting centers will be set aside to allow IDP's to vote for the council of the province from which they have been displaced.

I3. (C) CoR Speaker Mahmoud Mashadani told the Ambassador that an elections law can be completed in 90 days (ref E). However, since the full CoR is not expected back until after March 25 (and based on previous experience, it will not consistently have a quorum until early April), passage of an elections law is on an ambitious timeline. Mashadani's confident predictions aside, experts agree that a reasonable estimate is a period of eight months is needed from passage

of a law until elections can be held. Thus, an election law must be passed by May 1 to hold elections by the end of 2008.

To help move the process along, we have brought in a legislative drafting team, at IHEC's request, to assist the CoR and the Prime Minister's Office in thinking through and drafting the election law during the month of April. The UN Assistance Mission for Iraq (UNAMI) is also bringing in a drafting team at the request of the head of the CoR Legal Committee. The teams will operate as one and ensure that assistance efforts are well-coordinated. They will offer assistance with language and regional best practices, keeping in mind that the Iraqis will determine the actual content of the law.

LOGISTICAL OBSTACLES

14. (C) Logistical obstacles to achieving provincial elections during 2008 include an untested Independent High Electoral Commission (IHEC), a complex voter registration process, uncertainty over IDP voting, questions surrounding the size of the provincial councils, and security considerations. Although the IHEC commissioners were selected for their knowledge and expertise, they have not been confronted with managing myriad complexities of nationwide elections. While IHEC realizes that time is of the essence for election preparations, it has been tentative in taking charge of operational preparations that are needed to move ahead with planning in the absence of an election law. It has requested more direct involvement from UNAMI in making decisions about technical issues, and UNAMI has thus far pushed back, insisting the IHEC be the lead in making all key decisions while still providing technical assistance. UNAMI has advised IHEC to offer realistic ramifications of

BAGHDAD 00000918 002 OF 003

operational decisions, but to push responsibility for political decisions (such as drawing district boundaries) back on the political leadership. This tentativeness on the part of the IHEC commissioners could end up delaying key decisions, which in turn would slow down the election process. We will continue to provide technical assistance to the IHEC through our USAID-funded implementing partner, IFES, while also encouraging the commissioners to be proactive in making preparations. UNAMI will continue to provide the substantive guidance to the IHEC for all electoral advice and assistance in order to ensure coordination and avoid the perception that the international community's advice is driven solely by one donor.

15. (C) IFES continues to update the draft voter registry with the most recent information provided by the Ministry of Trade (Note: The Ministry of Trade administers the Public Distribution System which is the nationwide rations database from which the draft voter registry originates, and which is updated regularly. End Note) IHEC needs the elections law before the draft voter registry can be sent to the provinces for vetting. Of specific concern are arrangements for IDP voting. UNAMI election advisors believe that if the CoR provides the IHEC with information regarding their intended approach for IDP voting (which will eventually be written into the final election law), this will provide the IHEC the necessary political cover to begin the voter registry updates as soon as possible i.e. before the election law is passed. However, we cannot count on IHEC acting in advance of a final elections law. A final obstacle comes from the IHEC decision to update and print the voter list outside of Iraq, which will increase the time required to make adjustments, print the list, and return it to IHEC. IHEC asserts that no vendor in Iraq can guarantee the security and independence of the required printing operation. UNAMI believes this process could add two to three months to the process, further pushing elections beyond October.

6 (C) The international community in Iraq generally agrees that IDPs should vote in their place of residence for the

provincial council (PC) of their place of displacement (ref F). The draft election law, written by the Prime Minister's Office (PMO), defines IDP voting this way. Article 8/Third of the draft states, "Specific electoral centers shall be allocated for the displaced in their areas for the purpose of casting votes to their candidates in the areas from which they had been displaced." However, on the logistics side, there is some concern about implementing a law that requires that the ballot for every province be provided to every other province in order to allow for IDP voting throughout the country. Our assessment is that most IDPs are clustered in a few areas within 100 miles of Baghdad, and many, especially from Baghdad, are displaced from their neighborhood, but not necessarily their province. The election law drafted by the PM's Office calls for designated polling places for IDPs in their current locations, so they can vote for candidates from their place of origin. If a provision like that is implemented so that there are a few polling centers reserved specifically for IDPs in each province, and only those locations would have the ballots for all of the provinces, that would reduce the logistical burden of providing ballots for all provinces to over 30,000 polling locations. UNAMI has voiced support for such an approach. To implement it well, the IHEC will need to work closely with the Ministry of Migration (MOM) to determine the best sites for IDP voting to reduce their travel burden.

¶7. (C) The PMO's draft election law calls for the number of seats in the provincial councils to be determined by the size of the provincial population. Because there is no accurate census or generally accepted national database that can be used for a population count, and no census is planned for the foreseeable future, the method of determining provincial council size will no doubt have to be negotiated through a political agreement. The 2005 voter registry is not widely accepted as accurately reflecting provincial population figures, nor is the PDS. The most current population count (although only of registered voters) will come when the voter registry is updated for the 2008 elections, but that may not happen until late in the summer.

¶8. (C) A final, major logistical obstacle that needs to be overcome is development of a security plan for both the voter registry update period and election day. The Ministry of Interior (MOI) heads a "High Security Committee of Elections," which includes representation from the Ministry of Defense, Iraqi National Security Agency, and the Iraqi intelligence agency. Also providing guidance to this group are UNAMI, MNF-I and IFES. UNAMI has brought in a security expert to provide full-time assistance to the IHEC security team. In the 2005 elections, Iraqi security forces were able to guard polling stations and patrol the cities, while

BAGHDAD 00000918 003 OF 003

Coalition Forces provided outer-ring security throughout the provinces. We are currently evaluating possible security assistance for the 2008 elections.

POLITICAL OBSTACLES

¶9. (C) The biggest political hurdle will be obstructionism and delay by the potential losers in provincial elections. This starts from the top down. Maliki has already set the stage by informing the Ambassador that although he supports provincial elections, because of the lack of Iraqi security forces needed to protect the entire country, elections will need to be conducted serially i.e. holding elections in a few provinces at a time (ref G). The draft election law states that the election date will be set by presidential decree, 60 days prior to the event, so staggered elections are an option. This raises the concern that elections would be held in a few locations where those in power (ISCI/Dawa) are not expected to lose. Then, as elections approach in the provinces where ISCI and Dawa stand to lose, the process could be halted for "security reasons" or "technical"

difficulties". Maliki may believe we want to see elections in Anbar and Ninewa as a way to reward Awakening Movement/CLC groups for their fight against AQI. Our earlier inquiries concerning the possibility of rolling elections beginning in Anbar and Ninewa have possibly led him to believe that we will be pacified once those provincial elections are held, and that our fear of a Sadrists take over in the south and in Baghdad will discourage us from pressing for the remaining elections.

¶10. (C) VP Adel Mehdi contributed to the cloudy political picture for the holding of provincial elections with his veto of the Provincial Powers Law (PPL). However much he claimed that the veto was on constitutional grounds and that he fully supported maintaining the October 1 deadline for provincial elections (ref H), his action was widely seen as evidence that ISCI will use any means at its disposal to delay or obstruct provincial elections. The objections he posed to the PPL have not yet been addressed and there is still likely to be significant intra-Shi'a infighting over the shape of provincial powers--a debate that is certain to spill over into planning and implementation of provincial elections. Our assessment is that if ISCI believes it is likely to lose seats to the Sadrists in the southern Shia provinces and in Baghdad, it may seek to delay the holding of elections there.

¶11. (C) By the same token, IIP stands to lose in provinces such as Anbar and Ninewa, since Sunnis largely boycotted the 2005 elections in those provinces, which produced skewed results for the few Sunnis (IIP) who did win seats. The Awakening Movements/CLC's from those provinces do not believe the IIP represents their interests and are anxious to exploit new-found popularity to exercise their political muscle. It seems highly likely that Awakening movements and other Sunni groups will win a respectable number of seats. The Kurds are also not motivated to conduct elections. Even though there would be no provincial-level elections in the provinces of Suleiminiyah, Irbil or Dohuk because they are part of a region (the KRG), the Kurds believe they stand to lose their influence in other provinces bordering the KRG, such as Nineva, Salah ud Din and Ta'mim (Kirkuk).

COMMENT

¶12. (C) Between UNAMI and the USG (State, USAID, and MNF-I) we can provide the technical assistance the IHEC and GOI require to have a reasonable prospect of holding elections before the end of the year. Drafting of an elections law is already moving forward and a Council of Ministers draft should be presented to the COR by the end of March. The logistical obstacles, especially voter registration, IDP voting, and districting, will take time to sort out, but the solutions at least are relatively clear. Persuading entrenched powers to take risks that could lead to loss of power will be the rub. That said, the parties are all receiving a clear message that the Iraqi people want provincial elections held sooner rather than later. Political leaders who are seen as obstructing that process may face a backlash--a calculation that likely played into VP Abdul Mehdi's decision to withdraw his veto of the Provincial Powers Law while continuously stressing his commitment to the October 1 target date for elections.

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